

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Michael Kubayanda, Vice Chairman;  
Mark Acton;  
Ann C. Fisher; and  
Ashley E. Poling

Competitive Product Prices  
Priority Mail Express & Priority Mail Contract 92  
(MC2019-127)  
Negotiated Service Agreements

Docket No. CP2019-136

ORDER APPROVING AMENDMENT ONE TO  
PRIORITY MAIL EXPRESS & PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued October 29, 2020)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express & Priority Mail negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

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<sup>1</sup> USPS Notice of Amendment to Priority Mail Express & Priority Mail Contract 92, Filed Under Seal, October 20, 2020 (Notice). The amendment is an attachment to the Notice (Amendment).

## II. BACKGROUND

In Order No. 5077, the Commission approved the Priority Mail Express & Priority Mail Contract 92 negotiated service agreement (Existing Agreement).<sup>2</sup> On October 20, 2020, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On October 21, 2020, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for the Amendment to become effective three business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3035.105. *Id.*

## III. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* He notes that the Commission will have an opportunity to annually review the financial results for the contract. *Id.*

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<sup>2</sup> See Docket Nos. MC2019-127 and CP2019-136, Order Adding Priority Mail Express & Priority Mail Contract 92 to the Competitive Product List, April 30, 2019 (Order No. 5077).

<sup>3</sup> Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, October 21, 2020.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Express & Priority Mail Contract 92, October 26, 2020 (PR Comments).

#### IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment revises the negotiated rates and the annual adjustment provision of the Existing Agreement. Notice, Attachment A at 2-6. Additionally, the Amendment adds a list of prohibited ZIP Codes, restricts the contract partner to specific locations from which packages must originate, and revises the contract partner's minimum quarterly volume commitment. Notice, Attachment A at 1-2. The Amendment also revises a provision related to appeals. *Id.* at 7.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.G. of the Existing Agreement, as amended, should allow its revenues to cover costs for the duration of its term. Notice, Attachment A at 6. The Commission will

continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

*Other considerations.* The Postal Service states that the Amendment shall become effective three business days after the date that the Commission completes its review. Notice at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

## V. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Express & Priority Mail Contract 92 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Erica A. Barker  
Secretary